

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

KIMBERLEY GAIL HANKS

PLAINTIFF

v.

Civil No. 05-2145

CRAWFORD COUNTY JAIL;
CHERYL BORUM; and CARRIE,
Deputy/Floor Officer

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Kimberley Gail Hanks filed this civil rights action pursuant to 42 U.S.C. § 1983 on October 21, 2005. She proceeds pro se and in forma pauperis.

She names as defendants the Crawford County Jail and two individuals who work at the facility. The jail is a building and not a person or a legal entity subject to suit under § 1983. *See e.g., Dean v. Barber*, 951 F.2d 1210, 1214 (11th Cir. 1992)(“[s]heriff’s departments and police departments are not usually considered legal entities subject to suit”); *Powell v. Cook County Jail*, 814 F. Supp. 757 (N.D. Ill. 1993)(jail not subject to suit); *Marsden v. Fed. Bureau of Prisons*, 856 F. Supp. 832, 836 (S.D.N.Y. 1994)(“jail is not an entity that is amenable to suit”); *In re Scott County Master Docket*, 672 F. Supp. 1152, 1163 n. 1 (D. Minn. 1987)(sheriff’s department is not a legal entity subject to suit), *aff’d, Myers v. Scott County*, 863 F.2d 1017 (8th Cir. 1989).

Accordingly, I recommend that Hanks’ claims against the Crawford County Jail be dismissed. *See* 28 U.S.C. § 1915(e)(2)(B)(i)- (iii) (in forma pauperis action, or any portion of it, may be dismissed for failure to state a claim). However, I note that by separate order service will be directed on the remaining defendants.

Hanks has ten days from receipt of this report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. Hanks is reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 29th day of December 2005.

/s/ Beverly Stites Jones
UNITED STATES MAGISTRATE JUDGE